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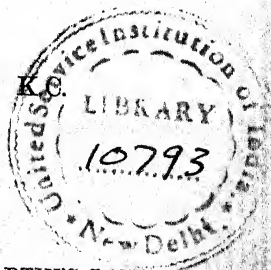
THE  
LAWS AND CUSTOMS OF WAR  
ON LAND,

AS DEFINED BY THE HAGUE CON-  
VENTION OF 1899.)

EDITED, WITH SUPPLEMENTARY MATTER AND  
EXPLANATORY NOTES,

BY

PROFESSOR T. E. HOLLAND, K.C.



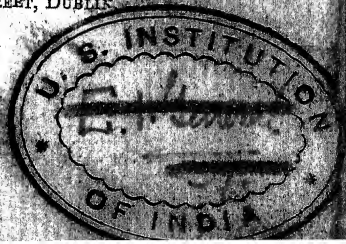
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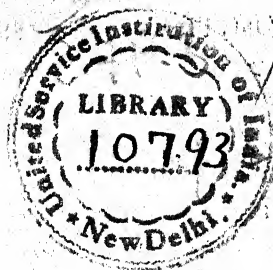
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### CORRIGENDA.

P. 14, art. 37, *after* "Contractors," *insert*  
"who fall into the power of the enemy."

P. 22, line 2, *for* "his" *read* "its."

P. 36, line 16, *insert*:—

75 *bis*. No general ~~penalty~~ <sup>penalty</sup>, pecuniary or otherwise, can be inflicted on the population on account of isolated acts for which it cannot be regarded as collectively responsible.  
(H. 50.)

This article does not pre-judge the question of Reprisals, as to which *see* arts. 99, 100, *infra*.

P. 37, line 14 from bottom, *for* "much" *read*  
"must."

P. 38, line 10 from bottom, *for* "bank" *read*  
"banks."





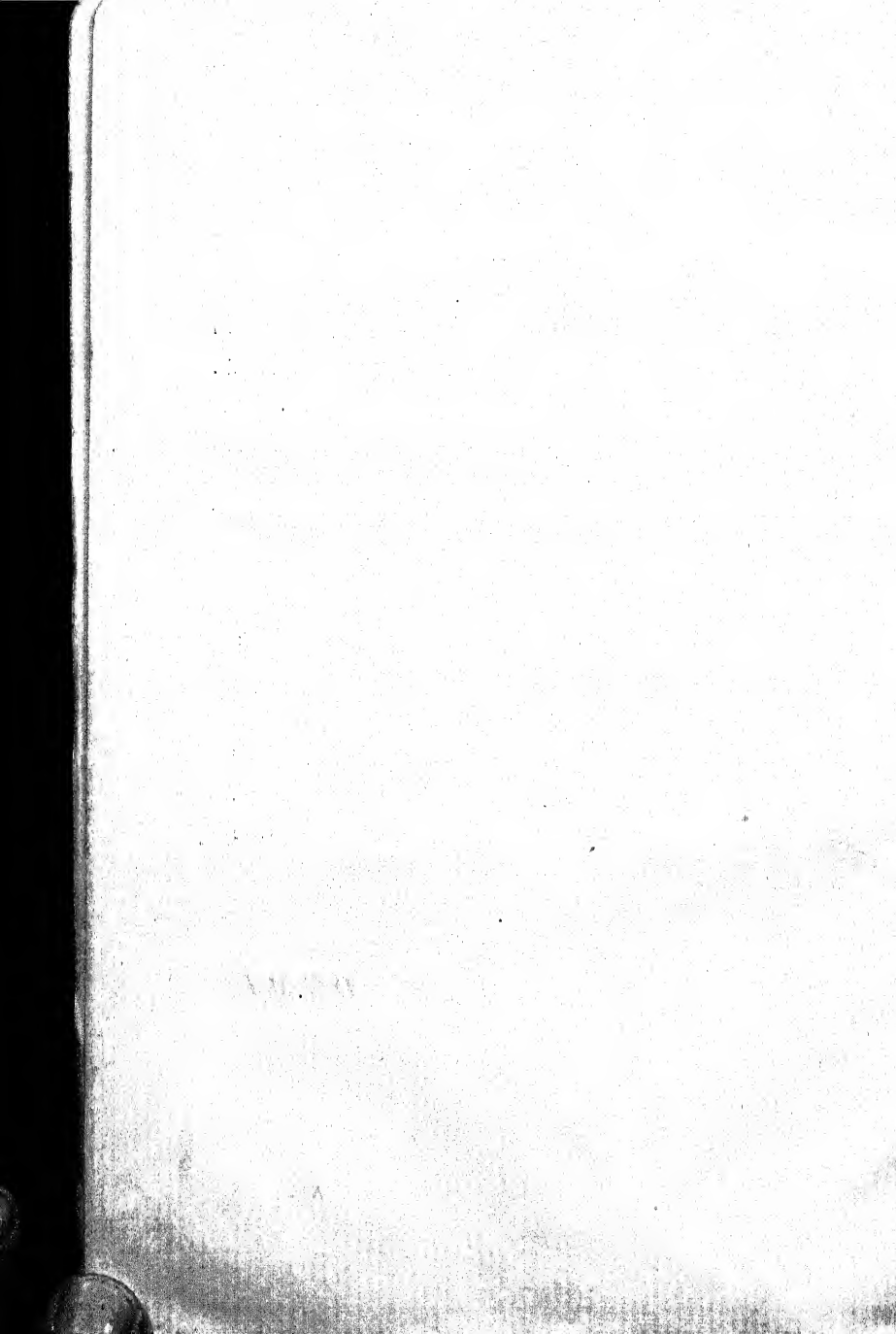
## PREFACE.

IN compliance with the undertaking contained in Art. 1 of the Convention signed at the Hague on the 29th July, 1899, the Regulations respecting the Laws and Customs of War on Land, annexed to the Convention, are published in this Handbook, for the information of all ranks of His Majesty's land forces. The articles of the Geneva Convention, of 1864, and the Declaration of St. Petersburg, of 1868, are also reproduced in order to complete the work.

The Handbook has been edited, as is explained in the Introduction and in Section I, Arts. 3 and 4, by Professor T. E. Holland, K.C., D.C.L., who has contributed explanatory notes and other matter for which he alone is responsible.

W. G. NICHOLSON,  
*D.G.M.I.*

WAR OFFICE,  
28th November, 1903.



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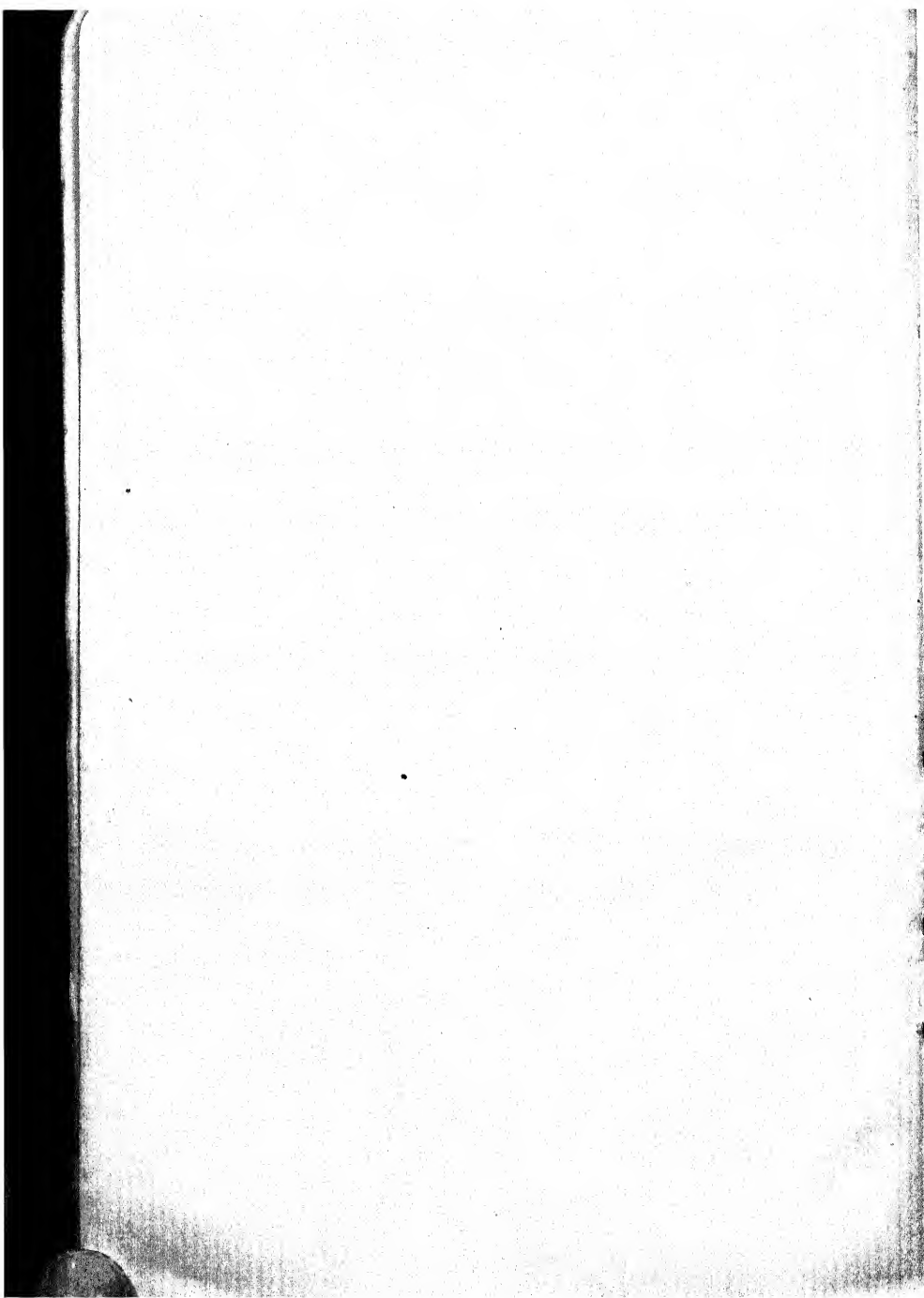
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## INTRODUCTION.

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THE object aimed at in this Handbook has been to set forth, in an orderly sequence, for the guidance of British troops, the rules of International Law, applicable to the conduct of warfare on land.

Such rules, as is shortly explained in the opening articles of the Handbook, existed, till a comparatively recent date, only as customs, preserved by military tradition and in the works of international jurists. Their authority was derived from the unwritten consent of Nations, as evidenced by their practice. Many of the so-called "laws of war" are still of this character.

But within the last forty years, the greater bulk of the rules in question have been expressed in written agreements, to which most civilized Powers have become parties. The instruments in which these agreements have been recorded, are known as the Geneva Convention of 1864, the Declaration of St. Petersburg of 1868, and the Hague Convention of 1899, which, incorporating as

it does the two former Acts, may fairly be regarded as being, so far as it goes, an international code of the laws of war on land.

Though thus comprehensive, the code is, however, far from covering the whole subject. On some points the Nations are not yet in agreement, and there will probably always continue to be a residue of questions, the answers to which will hardly admit of being stereotyped in a written document.

In this Handbook, articles expressing the still unwritten, or customary, laws of war, as derived by the compiler from the most reliable sources, are printed in large, but ordinary type.

Articles reproducing textually the three above mentioned conventional Acts are printed in large black type.

Explanatory comment in a smaller type is added to such articles as seemed to require it.

Some illustrative matter, historical and diplomatic, will be found in the Appendix.

T. E. H.

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# THE LAWS AND CUSTOMS OF WAR ON LAND.

## SECTION I.

### THE NATURE AND SOURCES OF THE LAW OF WAR.

1. The conduct of warfare is governed by certain rules (commonly spoken of as "the laws of war") which are recognized as binding by all civilized nations. The laws of war.

2. These rules, which derive their origin partly from sentiments of humanity, partly from the dictates of honour, and partly from considerations of general convenience, have grown up gradually. They have existed, till comparatively recent times, only as a body of custom, preserved by military tradition and in the works of writers upon international law. Unwritten.

Written.

3. On many points the international law of war still remains a matter of unwritten custom and tradition, but not a few of its rules have been of late years expressed in written agreements, which have received the formal assent of most civilized powers. The agreements, relating to warfare upon land, which have received such assent are: the GENEVA CONVENTION of 1864, "for the improvement of the condition of the wounded of armies in the field"; the PETERSBURG DECLARATION of 1868, "with reference to the prohibition of explosive bullets in time of war"; and the HAGUE CONVENTION of 1899, "concerning the laws and customs of war upon land."

It may be observed that the signatories to the Geneva Convention and the Petersburg Declaration are bound by the text of those Acts; while the parties to the Hague Convention are bound only to issue to their troops instructions "in conformity with" the rules which are annexed to it.\*

The plan of  
what follows.

4. The following articles contain a statement of the laws of war on land, whether deriving their authority merely from usage, or from express international agreement. Rules of the latter kind are printed in black type, and are followed by the letters G, P, or H, indicating, as the case may be, that they are derived, textually, from the Convention of Geneva, the

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\* For lists of the Powers which are parties to these agreements respectively, see Appendix No. I.

## Declaration of St. Petersburg, or the Convention of the Hague.

As to points not yet covered by express agreement, it is important to note a statement contained in the Convention of the Hague, that, in cases not included in the Regulations appended to the Convention, "populations and belligerents remain under the protection and government of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and from the requirements of the public conscience." It is declared "that it is in this sense that Articles I and II, especially, of the Regulations adopted [see Arts. 25, 26, *infra*], must be understood."

## SECTION II.

### GENERAL PRINCIPLES.

5. The object of war is to bring about the complete submission of the enemy, as speedily as may be, and with the least possible loss of life and damage to property.

The object of war.

#### *Military necessity.*

6. Military necessity justifies a resort to all measures which are indispensable for securing this object; provided that they are not inconsistent with the modern laws and usages of warfare.

What means are justifiable.

7. These laws and usages prohibit all needless

cruelty, and even needless destruction of human life.

They permit, on the other hand, that an invading army may, on grounds of military necessity, devastate whole tracts of country, burning dwellings, and clearing the district of supplies. In this case it is, however, the duty of the invader to make the best provision he can for the dispossessed population.

For limitations expressly imposed upon the measures which may lawfully be taken, see, for instance, *infra* Arts. 11, 17, 21, 26; as also 47-52, from the Convention of Geneva; 56, 57, from the Declaration of St. Petersburg; and 55, 58-62, 70-81, from the Convention of the Hague.

### *Martial law.*

Martial law  
defined

8. Martial law consists of such rules as are adopted, at his own discretion, by a Commander-in-Chief in the field, supplementing, or wholly or partially superseding the laws ordinarily in force in a given district. He will, for instance, treat certain acts as offences. He will decide upon the means to be taken for ascertaining the guilt of persons charged with such acts, and the punishment to be inflicted on such persons, if found guilty. He should, so far as may be, make generally known the principles by which he intends to be guided.

How differ-  
ent from  
military  
law.

9. "Martial law" as thus defined, must be carefully distinguished from "military law," *i.e.*,

for the British Army, that fixed body of rules, now contained in the Army Act, 1881, as continued in force by the Army (Annual) Act, which is applicable, in peace or in war, at home or abroad, to "all persons subject to military law," and to such persons only.

10. In exercising his discretion in the administration of martial law, a commander should always be guided by the laws and customs of war, as generally accepted. How limited.

11. Punishment under martial law should, as far as possible, be inflicted only after enquiry by a military court, convened for the purpose. Enquiry by court. Such a court is inaccurately, though commonly, described as a "court-martial," since that term is properly applicable, in British practice, only to a court instituted under the Army Act, 1881, for dealing with offenders belonging to the British Army.

12. Martial law is most stringent where hostile armies are face to face. It may be less stringently applied in districts which are fully occupied than in those in which a renewal of hostilities may probably be expected.\* Application of martial law.

13. Martial law applies to all persons, and to all property, within the district over which it is in force, irrespectively of the nationality of such persons, except in the case of diplomatic agents

---

\* As to "occupied territory," see Art. 68 *infra*.

accredited by neutral states to the territorial sovereign.

It is not usual for a British General, except in case of urgent necessity, to deal with offences by his own troops otherwise than under the Army Act.

14. In particular, a general commanding an army in the field has, during the continuance of the war, an absolute right to remove from any place within the sphere of his operations all persons whose presence therein is considered by him to be dangerous or inconvenient. He may deport those persons, with as little hardship as can be avoided, to such a distance as may be necessary effectually to prevent their speedy return.

15. He may take stringent measures to repress all attempts at interference with his communications, by road, railway, or telegraph, as also acts of marauding or assassination.

the presence  
of an invader  
a sufficient  
proclama-  
tion of,

16. The presence of an invading Army in a district is of itself, without any special warning to the inhabitants, a sufficient proclamation that the martial law of that army is in force in that district.

when sen-  
tences under  
should cease  
to be passed.

17. No punishment should be inflicted by martial law after the termination of hostilities, and when recourse can again be had to the ordinary Courts of Justice.

#### *Martial Law in the Home Territory.*

Recourse to  
martial law  
by the home  
government.

18. In time of invasion or rebellion, or in expectation thereof, exceptional powers are often

assumed by the executive government of a country, acting usually through its military forces, for the suppression of hostilities, or the maintenance of good order within its own territory. The legality of the measures then taken, which are conveniently preceded by a "proclamation of martial law," or some equivalent notification, is a question not merely of international law, but also of the national law of the country in question.

In many foreign countries the previous proclamation of a "state of siege" gives to measures afterwards taken the legality which would otherwise be wanting to them. A similar result may follow upon a "proclamation of martial law" in such British possessions as are under the direct legislative authority of the Crown.

In the United Kingdom, however, and in most self-governing British possessions, a "proclamation of martial law" operates only by way of warning that the government is about to resort, in a given district, to such forcible measures as may be necessary to repel invasion, or suppress insurrection, as the case may be. To obviate any question as to the legality of the measures taken for this purpose (whether or not they have been preceded by a proclamation of martial law) it has been usual to pass an Imperial or local Act of Indemnity, for the protection of those engaged, so far as the steps taken by them have been reasonable in character, and adopted in good faith.\*

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\* *E.g.*, the Cape Colony Indemnity Acts of 1900 and 1902. When the exercise of martial law has been sanctioned beforehand by statute (*e.g.*, by 43 G. III, c. 17), a subsequent Act of Indemnity is, of course, not required.

*Non-combatants.*

Non-combatants.

19. Non-combatants are to be spared in person and property during hostilities, so far as military necessity and the conduct of such non-combatants will permit. Especial care is to be taken of women and children, the sick and the aged, and protection must be given to the diplomatic representatives and consuls of neutral Powers in belligerent territory.

*Neutral subjects.*

Neutrals  
aiding  
belligerents,

20. Neutral subjects, taking part in hostilities on behalf of one belligerent, are liable to be treated by the other belligerent in every respect as if they were enemy subjects, and their own government has no right to object to their being so treated.

resident in  
belligerent  
territory;

21. Neutral subjects resident in, or passing through, the territory of a belligerent, must not be forced by either belligerent to take part in hostilities.

their  
liabilities:

22. Neutral subjects resident in, or passing through, the territory of a belligerent, are, equally with the other inhabitants of the country, liable to suffer in person and property through the events of the war; and their governments acquire thereby no right to claim compensation on their behalf. Such compensation, if not awarded by the special provisions of a treaty, is given only as a matter of grace and favour.



**23.** They are, for instance, liable to be removed from their homes, or even to be banished from the country on suspicion of misconduct towards an occupying army, or for reasons of strategic convenience.

**24.** The property of neutrals in territory which <sup>their</sup> is the scene of hostilities, such, for instance, as shipping, or railway plant, even though not placed by them at the disposal of the enemy, is liable to be taken possession of, or even destroyed, for strategic reasons, by either belligerent; but compensation must in this case be made, by the belligerent so acting, to the neutral owners for the loss they have sustained.

### SECTION III.

#### LAWFUL BELLIGERENTS.

**25.** The laws, rights, and duties of war <sup>Lawful &</sup> apply not only to the army, but also to militia <sup>belligerent</sup> and to corps of volunteers, which satisfy the <sup>forces.</sup> following requirements:—

1. That of being commanded by a person <sup>Require-</sup> responsible for his subordinates; <sup>ments.</sup>
2. That of having a distinctive mark, fixed and recognizable at a distance;

The object of this Requirement is to draw a distinct line between combatants and peaceful inhabitants, by insisting that the former shall wear something in the nature of a

uniform, which cannot readily be put on or taken off. This requirement, under the special circumstances of the case, was not insisted on during the war in South Africa.

3. That of carrying their arms openly; and

4. That of conducting their operations in accordance with the laws and customs of war.

In countries where militia or corps of volunteers constitute the army, or form part of it, they are included under the denomination "army." (H. 1.)

Relaxation  
in favour of  
levée en  
masse.

26. The population of a territory which has not been occupied who on the approach of the enemy, spontaneously take up arms to resist the invading troops, without having had time to organize themselves in accordance with Article I [*i.e.*, Art. 25, *supra*], shall be regarded as belligerents, if they respect the laws and customs of war. (H. 2.)

For what is meant by "occupied territory," see *infra*, Art. 68.

Non-com-  
batants in  
armed  
forces.

27. The armed forces of the belligerent parties may consist of combatants and of non-combatants. In case of capture by the enemy, both have a right to be treated as prisoners of war. (H. 3.)

As to persons following an army without being directly attached to it, see *infra*, Art. 37. As to persons who are entitled to greater privileges than ordinary prisoners of war, see Arts. 47-52, 83, 85. As to persons who cannot claim to be treated as prisoners of war, see Arts. 36, 65.

## SECTION IV.

## PRISONERS OF WAR.

28. Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them. Prisoners and their property.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property. (H. 4.)

Prisoners may, of course, be deprived for a time of the use of their property, for sufficient reasons; and it may be a question whether large sums of money found upon prisoners, or in their baggage, are, in fact, their private property.

29. Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go beyond certain fixed limits; but they can only be confined as an indispensable measure of safety. (H. 5.) Internment of prisoners.

30. The State may utilize the labour of prisoners of war according to their rank and capabilities. Such labour shall not be excessive, and shall have nothing to do with the military operations. Their labour.

Work even upon fortifications, at a distance from the scene of hostilities, would not seem to be prohibited by this paragraph.

Prisoners may be authorized to work for public bodies, for private persons, or on their own account.

Under "public bodies" (*administrations publiques*) would be included, *e.g.*, municipalities, companies, &c.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks.

When the work is for other public bodies, or for private persons, the terms shall be settled in agreement with the military authorities.

The earnings of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance. (H. 6.)

It is not customary in the British Army to charge the cost of maintenance of prisoners of war against their earnings, but reciprocity of treatment is expected from the other belligerent.

Their  
main-  
tenance

31. The Government into whose hands prisoners of war have fallen is bound to maintain them.

Failing a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters and clothing, on the same footing as the troops of the Government which has captured them. (H. 7.)

This paragraph must, of course, be read subject to military necessities.

Their  
duties.

32. Prisoners of war shall be subject to the

laws, regulations and orders in force of the army of the State into whose hands they have fallen.

Under this article prisoners may be punishable, even by death, for conspiracy or revolt.

Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary. <sup>Their punishment.</sup>

It is here understood, though not expressed, that all necessary steps even such as may cause death, may be taken to prevent escape.

Escaped prisoners recaptured before they have succeeded in rejoining their army, or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment. <sup>Their escape</sup>

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment for their previous flight. (H. 8.)

33. Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages granted to prisoners of war of his class. (H. 9.) <sup>Disclosure of name, &c.</sup>

34. Prisoners of war may be set at liberty on parole if the laws of their country authorise it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfil, both as regards their own Government and the Government by which they were made prisoners, the engagements they have contracted. <sup>Release on parole.</sup>

In such cases their own Government is bound neither to require of, nor to accept from, them any service incompatible with the parole given. (H. 10.)

In the British Army only commissioned officers are allowed to give their parole for themselves or their men. The parole must not go further than a promise not to serve during the war which at the time is in progress.

35. A prisoner of war cannot be forced to accept his liberty on parole; similarly the hostile Government is not bound to assent to the prisoner's request to be set at liberty on parole. (H. 11.)

Breach of  
parole.

36. Any prisoner of war, who is liberated on parole and recaptured bearing arms against the Government to which he had pledged his honour, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the Courts. (H. 12.)

The Courts here mentioned are military courts, constituted under the first par. of Article 32, *supra*.

Army  
followers.

37. Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, and whom the latter thinks fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying. (H. 13.)

Foreign officers acting as *attachés*, or as correspondents, are bound to take no part in directing the movements of

the army which they follow, and if shown to have so acted will be treated as prisoners of war. If their conduct has been in conformity with the obligations of neutrality, they may be released and afforded facilities for returning to their country, on condition that they do not, without the consent of the capturing belligerent, rejoin their posts until the conclusion of the war.

**38. A Bureau for information respecting prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States, and, if it should so happen, in the neutral countries within the territory of which belligerents have been received. The duty of this Bureau being to answer all inquiries about prisoners of war, it is furnished, by the various services concerned, with all information necessary to enable it to keep an individual return for each prisoner of war. It is kept informed of internments and changes, as well as of admissions into hospital and deaths.**

Bureau for information.

It is also the duty of the Information Bureau to receive and collect all objects of personal use, valuables, letters, &c., found on the battle-fields, or left by prisoners who have died in hospitals or ambulances, and to forward them to those interested. (H. 14.)

**39. Such Relief Societies for prisoners of war, as are regularly constituted in accordance with the law of their country for the purpose of serving as intermediaries for charity, shall receive from the belligerents, for themselves and their duly accredited agents, every facility,**

Prisoners' relief societies.

within the bounds of military requirements and Administrative Regulations, for the effective accomplishment of their humane task. Delegates of these Societies may be admitted to distribute relief at places of internment, as also at the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all Regulations for order and police prescribed by such authorities. (H. 15.)

Postage.

**40.** The Information Bureaux shall have the privilege of free transport. Letters, money orders, and valuables, as well as postal parcels intended for prisoners of war or despatched by them, shall be free of all postal rates, alike in countries of origin and destination, and in those passed through.

To give full effect to this article, new postal conventions would be necessary, as also, probably, fresh legislation.

Letters written to, or received for, prisoners of war are liable to such censorship as may be ordered.

Gifts.

**Gifts and relief in kind for prisoners of war** shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways. (H. 16.)

This provision would apply only to articles for personal use.

Pay of  
officers.

**41.** Officers taken prisoners may receive, in proper cases, the full pay allowed them while in this position by the regulations of their own



country, the amount to be repaid by their Government. (H. 17.)

Unless, of course, the liability is undertaken, in the Treaty of Peace, by the other belligerent.

42. Prisoners of war shall enjoy every facility for the exercise of their religion, including attendance at their own church services, provided only they comply with the regulations for order and police issued by the military authorities. (H. 18.)

Religion,  
worship.

This Article cannot, of course, be fully put into execution unless a chaplain of the prisoner's own persuasion happens to be present.

43. The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the national army.

The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank. (H. 19.)

Certificates  
of death, &c.

Respect should always be shown to the enemy's dead, whether they have died on the field of battle or in captivity. Care should also be taken, before burial, to preserve their regimental number, or other evidences of identity, with a view to communicating the same to the enemy's commander, or to the Bureau mentioned in Art. 38, *supra*.

44. After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible. (H. 20.)

Repatriation.

Some delays must, of course, occur, on account of (1) insufficiency of transport; (2) obvious risk in at once

restoring to the vanquished Power the troops of which it has been deprived ; (3) some prisoners being under punishment for offences committed during their imprisonment.

---

## SECTION V.

### THE SICK AND WOUNDED.

The Geneva  
Convention.

45. The duties of belligerents with regard to the sick and wounded are governed by the Geneva Convention of 22nd August, 1864, subject to any modifications which may be introduced into it. (H. 21.)

Its  
application for.

46. The provisions of this Convention, which are set forth in the following eight articles, apply, it must be observed, exclusively to the ambulances and hospitals of the belligerents, whether forming part of their regular military organization, or affiliated to it, though the result of private effort. The ambulances and hospitals of Red Cross, or Aid, Societies, unless they are so affiliated, and are under the control of a belligerent commander, enjoy, therefore, none of the benefits conferred by the Geneva Convention.

There is indeed no principle, even of unwritten international law, according any special rights or immunities to such societies, beyond those which may be accorded to them, as a matter of grace, in consideration of their humane efforts to alleviate suffering. It makes no difference whether or not they are recognized by the government of the State to which they belong as available when needed for service with its armies.

**47. Military ambulances and hospitals shall** Ambulances and hospitals neutralized.  
 be considered to be neutral, and, as such, shall  
 be protected and respected by the belligerents  
 so long as any sick or wounded shall be therein.

The term "Ambulance" must be taken here to cover all organizations (described in the British Army as "bearer companies" or as "field-hospitals") which follow the troops on the field of battle; while the term "hospital" covers fixed hospitals ("stationary" or "general") established on a line of communications, or at a base. See further under Art. 50 *infra*. It would probably have been better to say that these organizations are to be "inviolable," rather than "neutral." As to the possession of this character being dependent on the presence of sick or wounded, see under the next article.

If these ambulances or hospitals should be held by a military force, their neutrality would terminate. (G. I.)

What is said as to the presence of "a military force" does not apply to such pickets or sentinels as may be proper for the protection of an ambulance or hospital, nor does it prohibit the bearing of arms, or their use, for self-protection, by persons employed therein. Pickets or sentinels would, however, become prisoners of war.

The neutrality of an ambulance or hospital would not be compromised by the presence in it of arms belonging to the sick and wounded under treatment there. It is, however, desirable that such arms should be transferred as soon as may be to a combatant unit.

**48 The persons employed in hospitals and** Hospital staff neutralized.  
 ambulances, comprising the staff for super-  
 intendence, medical service, administration,  
 transport of wounded, as well as the chaplains,

shall share in the benefit of neutrality whilst so employed, and so long as there remain any wounded to bring in or to succour. (G. 2.)

The persons thus neutralized are bound to abstain most carefully not only from acts of open hostility against their enemy, but also from all acts, such as transmission of letters, or messages, calculated to impede the success of his operations.

Officers and men of the Army Service Corps, attached to the Army Medical Service for the whole duration of the campaign, would be among the persons contemplated by this Article. Chaplains would be among these persons only while attached to a medical unit.

The term "wounded" must here be interpreted as equivalent to "sick and wounded" in the preceding Article.

The restriction of the neutrality of the staff to occasions when sick or wounded actually require their care has been criticised, and is departed from in practice. It is therefore desirable (pending the revision of this Convention) that the Commander-in-Chief of a belligerent army should notify to the opposing belligerent that he is prepared, subject to reciprocity of treatment by the enemy, to accord the benefit of neutrality to the persons mentioned in this Article, during the whole time that they are attached to the forces of such opposing belligerent, irrespectively of the actual presence in the hospitals and ambulances of sick or wounded. The neutrality of these persons does not relieve them from the obligation of obeying the orders of the military authorities into whose hands they have fallen.

Their  
privileges.

**49.** The persons mentioned in the preceding Article may, even after capture by the enemy, continue to discharge their duties in the

hospital or ambulance which they serve, or may withdraw in order to rejoin the corps to which they belong.

Under such circumstances, when those persons shall cease from the discharge of their duties, they shall be delivered by the army which has captured them to the outposts of the enemy. (G. 3.)

This Article cannot be supposed to confer upon the persons mentioned in it an absolute right of deserting their own sick and wounded, and being allowed to rejoin the army to which they belong. The contrary was expressly provided by Art. 1 of the (*unratified*) Convention of 1868, which lays down that they "shall continue, after "capture by the enemy, to give such aid as may be "required to the sick and wounded of the ambulance or "hospital to which they are attached."

Such freedom of choice as is allowed to these persons must, doubtless, be exercised by them, not individually, but through their commanding officer.

The capturing general must, of course, exercise his own discretion as to the time at which, and the route by which, these persons are to be allowed to rejoin their own army.

50. As the equipment of military hospitals remains subject to the laws of war, persons attached to such hospitals cannot, on withdrawing, carry away any articles but such as are their private property. The equipment of hospitals,

Under the same circumstances an ambulance shall, on the contrary, retain its equipment. and of ambulances  
(G. 4.)

This article cannot be supposed to debar the capturing

force from using, in case of necessity, some of the sanitary equipment of an ambulance for the benefit of his own wounded.

When the persons mentioned in Art. 48 are allowed to withdraw under Art. 49, the question arises whether they may take with them the sanitary (medical and surgical) equipment. This Article draws a distinction between "hospitals" and "ambulances," which no longer corresponds to military practice. In 1864, the term "ambulance" was used as descriptive of the smaller organizations which followed the troops in the front line, while "hospital" included the larger organizations, which also moved with the troops ("field hospitals"), as well as fixed hospitals. A change soon occurred, in consequence of which the term "ambulance" was defined by Art. 3 of the (*unratified*) Convention of 1868, as applying to "field hospitals, or other temporary establishments, which follow the troops on the field of battle for the reception of the sick and wounded."

It would seem, therefore, that the immunity granted by this Article, as it must now be applied, extends to all organizations which follow the troops on a field of battle, as contrasted with fixed hospitals. The equipment of the latter only would therefore belong to the captor. *Cf. supra* Art. 47, *note*.

Privileges of  
inhabitants  
aiding  
wounded.

**51. Inhabitants of the country who shall bring help to the wounded shall be respected, and shall remain free. The Generals of the belligerent Powers shall make it their care to inform the inhabitants of the appeal addressed to their humanity, and of the neutrality which will be the consequence of it.**

Any wounded man received and cared for in a house shall serve as a protection thereto.

Any inhabitant who shall have taken wounded men into his house shall be exempted from the quartering of troops, as well as from a part of the war contributions which may be imposed. (G. 5.)

Assistance rendered by inhabitants on the field of battle must, of course, be with the permission, and under the direction, of the military authorities. Opportunity might otherwise be given for robbery and for *espionage*.

The clause as to the duty of Generals applies to the whole of the Article and should have been placed at the end of it.

The second paragraph can only be taken as a general direction to commanders, and subject to their discretion. The protocol of the seventh sitting of the Conference of 1864 records that the paragraph "is not to be taken to mean "absolutely that the presence of one wounded man, or "even several wounded men, can release an inhabitant "from the duty of supplying all the needs of the army in "proportion to his means." So Art. 4 of the (*unratified*) Convention of 1868 properly provided that in quartering troops and levying contributions, regard need be had "only to an equitable extent to the charitable zeal displayed by the inhabitants."

A commander in promulgating orders as to utilizing the houses of the inhabitants for the temporary reception and care of the sick and wounded, should be careful to specify, as precisely as possible, the restrictions which he may decide to impose upon the privileges granted by this Article.

On Contributions, Requisitions, and Services, *cf. infra*, Arts. 75-77.

**52. Wounded or sick soldiers shall be brought** [impartial treatment of wounded.]

in and cared for, to whatever nation they may belong.

Release of  
wounded.

Commanders-in-chief shall have the power to deliver immediately to the outposts of the enemy soldiers who have been wounded in an engagement, when circumstances permit this to be done, and with the consent of both parties.

Those who, after recovery, are considered to be incapable of serving, shall be sent back to their country.

The others may also be sent back, on condition of not again bearing arms during the continuance of the war.

Evacua-  
tions.

Evacuations, together with the persons under whose directions they take place, shall be protected by an absolute neutrality. (G. 6.)

In the third paragraph, "those" are apparently the "wounded" or "sick" of paragraph one, and not merely the "wounded" of paragraph two.

It will be observed that the first and third paragraphs of this Article are obligatory; the second and fourth permissive. The unconditional repatriation of disabled patients, and the release on parole of undischarged patients are alike open to many objections, unless desired by both belligerents.

"Evacuations" are convoys of sick and wounded in course of conveyance. This paragraph, though it invests such convoys with privileges similar to those enjoyed by ambulances, does not enable the commander of a besieged place to relieve the pressure upon his resources, by sending out his wounded, nor does it entitle a besieger to increase that pressure by sending a convoy of wounded into the place which he is besieging. Cf. *infra*, Art. 60, comment.

The conveyance may take place by road, by railway, or



by water : but, to enjoy the benefit of this Article, must not be combined with the transport of troops, or with any other military operation.

The means of traction (horses, engines, &c.) must be taken to be included in the neutrality conferred by this paragraph until the convoy reaches its destination, at all events in cases when seizure of them would be productive of suffering to the wounded.

**53. A distinctive and uniform flag shall be** The Red Cross flag and badge.  
adopted for hospitals, ambulances, and evacuations. It must, in every case, be accompanied by the national flag. An arm-badger (*brassard*) shall also be allowed for individuals neutralized, but the delivery thereof shall be left to military authority.

Before 1864 there had been no uniformity of national usages as to the distinctive flag to be used for the purposes mentioned in this Article.

The "national flag," by which, under this Article, the Red Cross flag must in every case be accompanied, is the flag of the belligerent Nation to which the hospitals, ambulances, &c., belong, whether as forming part of its regular military organization or as having been affiliated to that organization for the purposes of the campaign. No Red Cross, or Aid, Society, whether supplied by the belligerent's own subjects, by a neutral state, or by the subjects of a neutral state, unless it has been so affiliated and is under the control of the belligerent commander, is within the scope of, or entitled to the privileges conferred by, the Geneva Convention. No commander will allow, within the sphere of his operations, the use of any national flag other than that of his own country.

The requirement that the national flag shall accompany that which indicates hospitals, &c., was a necessary

consequence of the provision that the latter flag is to be the same for both belligerents.

A mistaken impression that voluntary aid societies, as such, are within the scope of the Geneva Convention, has, on some occasions, induced the staff of hospitals, &c., arriving from neutral countries, the services of which have been accepted by belligerents, improperly to hoist the flag of the neutral State from which they came.

Arm-badges with a special War Office mark, should in time of war be issued under the authority of the Principal Medical Officer, with the official stamp of the Medical Department. A register should be kept of the names and descriptions of the persons to whom the badges have been issued. Such persons should be furnished with an official certificate, bearing a number and a date corresponding with entries in the register. The framing of regulations as to the conditions upon which arm-badges may be issued, would be within the powers conferred upon Commanders by Art. 54 *infra*.

**The flag and the arm-badge shall bear a red cross on a white ground. (G. 7.)**

The device, the employment of which is enjoined by this Article, is borrowed from the arms of the Swiss Confederation, reversing the colours.

It had been already adopted, for the voluntary "Sociétés de Secours," at the unofficial Conference held at Geneva, in 1863, with a view to the systematic formation of such societies. Its use under the Convention having been found liable to misunderstanding by Mahomedan troops, a red crescent was substituted for it in the wars of 1876 and 1897, in its own sanitary service by Turkey, which, however, undertook to continue to respect the red cross in the service of the enemy.

The abuse of the Red Cross flag, by hoisting it over barracks, or magazines of munitions of war, is a grave

offence, and may lead to a disregard of the flag in all cases.

The Red Cross flag must be large and conspicuous. It should be exhibited in such a way as not to be invisible during a calm. Trains, and tilted wagons, devoted to the carriage of persons and equipment protected by the Convention, should be painted white on both sides, with a red cross on as large a scale as possible.

54. The details of the execution of the present Convention shall be regulated by the Commanders-in-Chief of belligerent armies, according to the instructions of their respective Governments, and in conformity with the general principles laid down in this Convention. (G. 8.)

Application  
of the  
Geneva  
Convention.

This Article, it may be remarked, leaves a useful discretion to commanders-in-chief and Governments. The "general principles" to which it alludes are those laid down in Arts. 47-54 of this Handbook, representing Arts. 1-8 of the Convention of Geneva.

## SECTION VI.

### THE CONDUCT OF HOSTILITIES.

#### *The Means of Injuring the Enemy.*

55. The right of belligerents to adopt means of injuring the enemy is not unlimited. (H. 22.)

Restrictions,  
on means of  
injuring.

56. The progress of civilization should have the effect of alleviating as much as possible the calamities of war. The only legitimate object

Arms  
causing  
needless  
suffering  
or inevitable

death, not to  
be employ-  
ed.

which States should set before themselves during war is to weaken the military forces of the enemy. For this purpose it is sufficient to disable the greatest possible number of men. This object would be exceeded by the employment of arms which would uselessly aggravate the sufferings of disabled men, or render their death inevitable. The employment of such arms would, therefore, be contrary to the laws of humanity. (P. Preamble.)

Explosive  
bullets.

57. By the Declaration of St. Petersburg, the Contracting Parties, of which Great Britain is one, engage mutually to renounce, in case of war among themselves, the employment by their military or naval forces of any projectile of a weight below 400 grammes,\* which is either explosive or charged with fulminating or inflammable substances.

This engagement is obligatory only upon the Contracting or Acceding Parties thereto, in case of war among two or more of themselves:† it is not applicable for the benefit of non-Contracting Parties, or Parties who shall not have acceded to it.

It will in like manner cease to be obligatory from the moment when, in a war between Contracting or Acceding Parties, a non-Contracting Party or a non-Acceding Party shall join one of the belligerents. (P.)

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\* *i.e.*, approximately, 14 oz.

† For a list of the Parties to this Declaration, see Appendix No. I (2).

**58. Besides the prohibitions provided by special conventions,\* it is especially prohibited:—**

(a.) **To employ poison or poisoned arms;** Poison,

And, on analogy, it has been suggested, to spread contagious diseases.

(b.) **To kill or wound treacherously individuals belonging to the hostile nation or army.** Assassination.

This includes not only assassination of individuals, but also, by implication, any offer for an individual "dead or alive."

(c.) **To wound or kill an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion.** Refusal of quarter,

It may be a question up to what moment acts of violence may be continued without disintitling the doer to be ultimately admitted to the benefit of quarter under this cause.

An offer to surrender is frequently communicated by the hoisting of a white flag, which, however, can protect only the force by which it is hoisted.

(d.) **To declare that no quarter will be given.** Declaration of no quarter,

(e.) **To employ arms, projectiles, or material, of a nature to cause superfluous injury.** Superfluous injury,

*Cf. Arts. 56, 57, supra.* Great Britain has not acceded to the three "Declarations" signed at the Hague, which respectively prohibit the signatories among themselves from: (1) throwing projectiles, &c., from balloons; (2) employing projectiles, the only purpose of which is to spread noxious gases; (3) using expanding bullets. *See Appendix, No. III.*

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\* The only such Convention as yet made is the Declaration of St. Petersburg of 1863. *See supra, Arts. 56, 57.*

Needless  
destruction  
of  
property.

(g.) To destroy or seize the enemy's property unless its destruction or seizure be imperatively demanded by the necessities of war. (H. 23.)\*

The "necessities of war" may obviously justify not only the seizure of private property, but even the destruction of such property, and the devastation of whole districts. See *supra*, Art. 7.

Sieges and  
bombard-  
ments.

59. The attack or bombardment of towns, villages, habitations or buildings, which are not defended, is prohibited. (H. 25.)

A place, although not fortified, may be bombarded if it is defended. This article is not to be taken to prohibit the use of any means for the destruction of buildings for military reasons.

A place must not be bombarded with a view merely to the exaction from it of ransom.

Warning.

60. The Commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities of what is about to happen. (H. 26.)

By "assault" a surprise attack is here intended. The besieger is under no absolute obligation to allow any portion of the population of a place to leave it, even when a bombardment is about to commence.

Objects to  
be spared.

61. In sieges and bombardments all necessary steps should be taken to spare, as far as possible, edifices devoted to religion, art, science and charity; hospitals, and places where the sick and wounded are collected, provided

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\* H. 23 (f) is inserted in Art. 64, *infra*.

they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants. (H. 27.)

**62.** The pillage of a town or place, even Pillage. when taken by assault, is prohibited. (H. 28.)

Much less may a garrison, as was at one time practised, be put to the sword for an over-obstinate defence. As to pillage, *cf.* Art. 73 *infra*.

### *Stratagems.*

**63.** Stratagems and the employment of Stratagems allowed. methods necessary to obtain information about the enemy and the country are considered lawful. (H. 24.)

Good faith must, however, always be observed with the enemy, and this Article must not be taken to authorise any such acts of treachery as are expressly forbidden in Art. 58 (*b*), and in Art. 64.

**64.** It is, however, forbidden to Fraud forbidden. make improper use of a flag of truce, of the national flag or the military distinguishing marks and the uniform of the enemy, as well as of the distinctive signs of the Geneva Convention. (H. 23 (*f*).)

On flags of truce, see Arts. 82-85, *infra*. The treacherous use of a white flag as indicating a readiness to surrender is, of course, within this prohibition.

By "national flag" is, of course, meant the flag of the enemy.

Troops may sometimes be obliged by lack of clothing,

and with no fraudulent intent, to make use of uniforms belonging to the enemy. Care must be taken in such cases to make alterations in the uniform which will clearly indicate the side to which those who wear it belong.

### *Spies.*

Spies,  
who are,

65. Spies cannot claim to be treated as prisoners of war, but an individual can only be considered a spy if, acting clandestinely, or on false pretences, he obtains, or seeks to obtain, information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

who are not.

Thus, soldiers not in disguise who have penetrated into the zone of operations of a hostile army to obtain information are not considered spies. Similarly, the following are not considered spies: soldiers or civilians, carrying out their mission openly, charged with the delivery of despatches intended either for their own army or for that of the enemy. To this class belong likewise individuals sent in balloons to deliver despatches, and generally to maintain communications between the various parts of an army or a territory. (H. 29.)

To claim the benefit of the second clause of this Article soldiers must be in uniform.

Persons in balloons are not spies, even if engaged in observing the movements of the enemy.

The examples given in this Article are not intended to be exhaustive.



**66. A spy taken in the act cannot be** Trial of spies.  
**punished without previous trial. (H. 30.)**

The severity with which spies are treated is exercised merely to prevent their employment. The motives with which a spy has acted have therefore no bearing either way upon his treatment.

**67. A spy who, after rejoining the army to** When their liability ceases.  
**which he belongs, is subsequently captured by**  
**the enemy, is treated as a prisoner of war, and**  
**incurs no responsibility for his previous acts**  
**of espionage. (H. 31.)**

He may, of course, have incurred responsibility for acts of a different kind.

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## SECTION VII.

### AUTHORITY IN OCCUPIED TERRITORY.

**68. Territory is considered to be occupied** Occupation defined.  
**when it is placed as a matter of fact under the**  
**authority of the hostile army.**

The occupation extends only to territories where that authority is established and capable of being exercised. (H. 42.)

The authority of the occupant may be exercised, by flying columns, beyond the places in which his forces are actually present, or in which the inhabitants have been disarmed.

The occupation of a given district should be, as far as possible, made known to the inhabitants of it, by proclamations posted up at the principal localities, or otherwise. But see Art. 16 *supra*.

It should be noted that all restrictions imposed upon an occupant apply, and with greater force, also to an invader of territory who is not yet in occupation of it.

Rights and  
duties of the  
occupant.

69. The authority of the legitimate power, having passed as a matter of fact into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. (H. 43.)

It may be necessary to vary the criminal, administrative and other branches of Public Law, but hardly to interfere with the rules of Private Law, *e.g.*, as to property, contracts, or family relations.

The occupant will often be glad to avail himself of the services of the native local authorities, so far as he can trust them, in case, and so long as, they are willing to continue in office.

In addition to so much of the native law as he considers suitable to be enforced, the occupant will also administer "martial law"; as to which see Arts. 8-17, *supra*.

Not to  
exact  
military  
services  
from  
inhabitants.

70. Any compulsion on the population of occupied territory to take part in military operations against its own country is prohibited. (H. 44.)

This prohibition will not apply to urgently necessary work, such as, *e.g.*, repairs to roads or bridges, although of ultimate military utility, or to service as guides.

Nor oath of  
allegiance.

71. Any compulsion on the population of occupied territory to take the oath to the hostile Power is prohibited. (H. 45.)

A mere occupant has no right to exact an oath of

allegiance from the population. He may, however, make such privileges as he may grant to them conditional upon their oath or promise not to take up arms against him, or to otherwise assist the enemy. This is sometimes described as an "oath of neutrality."

**72. Family honour and rights, the lives and private property of individuals, as also religious beliefs and liberty of public worship, must be respected.** To respect life, property &c.

Private property cannot be confiscated.  
(H. 46.)

*Cf.* the Army Act, 1881, s. 6 (1) (f), s. 49 (1).

All that is said as to private property must, of course, be read subject to military necessity, and, in particular, to Arts. 75-79, *infra*.

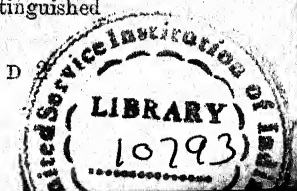
**73. Pillage is formally prohibited. (H. 47.)** Pillage.

Pillage, or loot, has been defined as "booty which is not permitted."

*Cf.* Art. 62 *supra*, and the Army Act, 1881, s. 6 (1), (a), (f), (g), s. 49 (1).

**74. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules for assessment and incidence which are in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory, to the extent to which the legitimate Government was bound to do so. (H. 48.)** Taxes.

Taxes, etc., imposed by the State, are here distinguished from rates, etc., imposed by local authorities.



Contribu-  
tions.

**75.** If, besides the taxes contemplated in the preceding Article, the occupant levies other money contributions in the occupied territory; this can only be for the needs of the army, or of the administration of such territory. (H. 49.)

The occupant is not to levy contributions for the mere purpose of enriching himself.

It may sometimes be justifiable to levy a money contribution on one place, in order to spend it on the purchase of requisitions in kind at another place. The burden of the war may thus be more equitably distributed, falling on the inhabitants generally, rather than upon individual owners of the property which may be required.

Contribu-  
tions, how  
to be  
levied.

**76.** No contribution shall be levied except under a written order, and on the responsibility of a Commander-in-chief.

This levy shall, as far as possible, take place only in accordance with the rules which are in force for the assessment and incidence of taxes.

For every contribution a receipt shall be given to the payer. (H. 51.)

As to receipts see Art. 77, *infra*, comment.

Requisi-  
tions.

**77.** Neither requisitions in kind, nor services, can be demanded from localities or inhabitants except for the needs of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to imply any obligation upon the population to

take part in military operations against their country.

"Requisitions in kind" may, of course, relate not only to provisions, but also to horses, vehicles, clothing, tobacco, &c. The "services" here intended are such as would be rendered by drivers, blacksmiths, and artisans and labourers of all kinds; as also by the occupiers of houses upon which troops are quartered.

The phrase "for the needs of the army of occupation" was adopted rather than "for the necessities of the war," as being more favourable to the inhabitants.

The rules as to assessment, mentioned in Art. 74, *supra*, are obviously inapplicable to "requisitions" and "services," which can therefore be limited only by "the resources of the country."

The "military operations" here intended would probably not comprise works at a distance from the scene of hostilities. *Cf.* Art. 30, *supra*.

**These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.**

"Requisitions" and "services" much obviously often be necessary when there is no time for reference to a higher authority than the Commander on the spot, or even for obtaining his order in writing.

**Supplies in kind shall, as far as possible, be paid for on the spot; if not, the fact that they have been taken shall be established by receipts. (H. 52.)**

Payment is even politic, as decreasing the chances of concealment of supplies, &c.

On exacting "contributions" with a view to making payments for requisitions, see Art. 75, *comment, supra*.

The "receipts" mentioned in this and in the preceding Article are intended as evidence that money, goods, or services have been exacted, but imply, in themselves, no promise to pay on the part of the occupant (a provision to this effect was indeed deliberately rejected at the Hague Conference). He does not even thereby bind his Government, if victorious, to stipulate in the Treaty of Peace that the receipts shall be honoured by the Government of the territory which has been under occupation.

An occupant may, of course, incur a greater liability by the form which he chooses to give to his receipts, or under the terms of a general proclamation which he has issued.

What State  
property  
may be ap-  
propriated.

**78. An army of occupation can only take possession of cash, funds and realizable securities, which are State property, depôts of arms, means of transport, stores and supplies, and generally all movable property of the State which may be of use for military operations.**

The occupying army may not only "take possession" of these things, but may also confiscate them for the benefit of its own Government absolutely. It must, however, be observed that some forms of property, nominally belonging to the State, *e.g.*, the funds of savings bank, may be in reality private property, under State management.

It may be noted that considerable differences of opinion exist as to the meaning of the purposely ambiguous term, "Valeurs exigibles," here translated "realizable securities." It has been officially translated into German by "eintreibbare Forderungen."

Railway plant, land telegraphs, telephones, steamers, and other ships, apart from cases governed by maritime law, as well as depôts

of arms, and generally, all kinds of war material, even though belonging to companies or to private persons, are likewise means for conducting military operations, but they must be restored, and the compensation to be paid for them shall be arranged for on the conclusion of peace. (H. 53.)

Conditions  
under which  
private  
property  
may be  
taken.

The proposal to add to "land telegraphs" "shore cables," was negatived at the Hague, on the ground that the Conference was dealing only with warfare on land.

Although no receipt is here required to be given, something of the sort is obviously desirable, with a view to subsequent compensation. The Treaty of Peace must settle upon whom the burden of making compensation is ultimately to fall.

**79. Railway plant coming from neutral States, whether it be the property of those States or of companies or of private persons, shall be sent back to them as soon as possible. (H. 54.)**

Neutral  
railway  
plant.

*Cf. supra, Art. 24.*

**80. The occupying State shall regard itself as being only administrator and usufructuary of the public buildings, immovable property, forests and agricultural undertakings belonging to the hostile State, and situated in the occupied country. It must protect the substance of these properties, and administer it according to the rules of usufruct. (H. 55.)**

State lands,  
buildings,  
&c.

A person is said, in continental systems of law, to be a "usufructuary," or to enjoy a "usufruct," in property in which he has only a life interest. The "rules of

usufruct" may be shortly stated to be that the property subject to the right must be so used that its substance sustains no injury.

Churches,  
schools, &c.,  
and works of  
art, &c.

**81.** The property of localities, as also that of institutions devoted to religion, charity, and education, and to the arts and sciences, even when State property, shall be treated as private property is treated.

Under "property of localities" might come, *e.g.*, town-halls, waterworks, gasworks, or police-stations.

All seizure, destruction, or intentional injury of such institutions, of historical monuments, or of works of art or science, is prohibited, and should be made the subject of proceedings. (H. 56.)

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## SECTION VIII.

### NON-HOSTILE INTERCOURSE BETWEEN BELLIGERENTS.

#### *Flags of truce.*

**82.** Non-hostile communications between belligerents must be conducted with scrupulous good faith. They are usually commenced by means of a flag of truce.

**83.** An individual is considered as being the bearer of a flag of truce who is authorized by one of the belligerents to enter into communi-



cation with the other, and who comes with a white flag. He has a right to inviolability, as have also the trumpeter, bugler, or drummer, the flag-bearer and the interpreter, who may accompany him. (H. 32.)

The bearer of a flag of truce will, of course, enjoy the privileges of such, although he may come unaccompanied.

**84.** The Commander to whom a bearer of a flag of truce is sent is not obliged to receive him under all circumstances.

So, for instance, if he is executing a secret movement. A Commander may also, under certain circumstances, declare beforehand that a flag of truce cannot be received.

He can take all steps necessary to prevent the bearer of the flag of truce from taking advantage of his mission to obtain information.

The bearer of a flag of truce may, for instance, be blindfolded.

In case of abuse, he has the right to detain the envoy temporarily. (H. 33.)

**85.** The bearer of a flag of truce loses his rights of inviolability if it is proved beyond doubt that he has taken advantage of his privileged position to instigate or commit an act of treachery. (H. 34.)

"Trahison" in the original, i.e. "treason," an offence of which, in strictness, an enemy cannot be guilty. The

term was employed because in some systems of law, the instigator of treason might himself, though not a subject, be treated as accessory to the crime.

### *Capitulations.*

**86.** Capitulations agreed on between the Contracting Parties must be in accordance with the rules of military honour.

When once settled, they must be scrupulously observed by both the parties. (H. 35.)

A capitulation is an agreement for the surrender of troops or places.

A capitulation clearly in excess of the implied authority of the officer by whom it is made, for instance, that his troops shall never serve again against the same enemy, may, however, be repudiated by his Government.

It is an implied condition, in the capitulation of a place, that the capitulating force shall not destroy its fortifications or stores, after the conclusion of the agreement.

### *Truces, Armistices, or Suspensions of Arms.*

**87.** An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not fixed, the belligerent parties can resume operations at any moment, provided always that previous notice, of such length as has been agreed upon, has been given to the enemy, in accordance with the terms of the armistice. (H. 36.)

There is no difference of meaning, according to

British usage at least, between a "truce," an "armistice" and a "suspension of arms."

88. An armistice may be general or local. The former suspends everywhere the military operations of the belligerent States; the latter, only those between certain fractions of the belligerent armies and within a fixed radius. (H. 37.)

A general armistice is, of course, in excess of the implied authority of a local commander.

An armistice should specify, as far as possible, the acts which are forbidden, and those which are permitted, to the belligerents during its continuance.

89. An armistice must be notified officially, and in good time, to the proper authorities and to the troops. Hostilities are suspended immediately after the notification, or at the moment agreed upon. (H. 38.)

90. It is for the Contracting Parties to settle, in the terms of the armistice, what relations may be had by them, within the theatre of war, with the population and with each other. (H. 39.)

91. Any serious violation of the armistice by one of the parties gives the other party the right to denounce it, and even, in case of urgency, to recommence hostilities at once. (H. 40.)

92. A violation of the terms of the armistice, by individuals acting on their own responsibility, only confers the right of

demanding the punishment of the offenders, and compensation for any losses which may have been sustained. (H. 41.)

93. It is often desirable to interpose, during an armistice, a neutral zone between the belligerent forces.

94. A treaty of peace, after signature, but before ratification, operates as a general armistice.

### *Cartels.*

Cartels, as to  
prisoners,

for other  
purposes.

95. The term "cartel" is most commonly employed to denote an arrangement entered into between the belligerents with reference to the exchange, or treatment, of prisoners. This term is, however, of general application, and may be used with reference to agreements for other purposes.

### *Safe-conducts, Safe-guards, etc.*

Passports.

Safe-  
conducts.

Licences.

Safe-guards.

96. A belligerent often grants to enemy individuals a "passport," enabling them to pass unmolested through districts occupied by his forces. A "safe-conduct" has the same effect, but is applicable also to the carriage of goods, as is a "licence."

A "safe-guard" is a notification by a belligerent commander that buildings or other property upon which the notification is usually posted up, are exempt from interference on the part of his troops. The term is also used to describe a

guard, placed by the commander to ensure such exemption. "Forcing a safe-guard" is a serious offence.

*Cf.* the Army Act, 1881, s. 6 (c).

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## SECTION IX.

### PENALTIES FOR VIOLATIONS OF THE LAWS OF WAR.

#### *Punishment of Offenders.*

97. Individuals offending against the laws of war are liable to such punishment as is prescribed by the military code of the belligerent into whose hands they may fall, or, in default of such code, then to such punishment as may be ordered, in accordance with the laws and usages of war, by a military court.

Punishment  
of actual  
offenders.

98. When a whole corps systematically disregards the laws of war, *e.g.*, by refusal of quarter, any individuals belonging to it, who are taken prisoners, may be treated as implicated in the offence.

#### *Reprisals.*

99. When the actual offenders cannot be reached or identified, resort may be had to measures of "Reprisals" or "Retaliation," by which persons guilty of no offence may suffer for

Reprisals.

the acts of others. Since, however, the permissibility of such measures is a painful exception to the rule that a belligerent must observe the laws of war, even without reciprocity on the part of the enemy, reprisals must be sparingly exercised, and then not by way of vengeance, but solely in order to prevent a repetition of the offence complained of.

Reprisals need not resemble in character the offence complained of. They may be exercised against persons or property. Only in extreme cases have prisoners of war been executed by way of reprisal; but the destruction of villages, houses, &c., on account of offences committed in them, or in their neighbourhood, has not been uncommon. Such destruction is not to be confused with that which is occasionally necessary for strategic reasons. *Cf. supra*, Arts. 7, 58 (*g*).

Restrictions  
upon the  
practice.

**100.** Reprisals must be exercised only subject to the following restrictions:—

1. The offence in question must have been carefully enquired into.
2. Redress for the wrong, or punishment of the real offender, must be unattainable.
3. The Reprisals must be authorized, unless under very special circumstances, by the commander-in-chief.
4. They must not be disproportioned to the offence, and must in no case be of a barbarous character.

## SECTION X.

## NEUTRAL TERRITORY.

**101.** The territory of a neutral state, so long as the state fulfils its duties as neutral, must not be entered by troops of either belligerent, except for the purpose of asking to be interned therein.

inviolability  
of neutral  
territory.

**102.** Among the duties of the neutral state, are—to allow no passage to the forces of either belligerent, but to disarm and intern any of such forces as may seek refuge on its territory.

Neutral  
bound to  
refuse  
passage to  
belligerent  
forces,

A neutral state will, of course, not be expected to discharge the duties cast upon it by this and the following Articles should it be unprovided with forces sufficient to enable it to do so. Thus, at the Hague Conference, Luxemburg declared their inability to discharge them.

*Cf. infra*, Art. 103. If a belligerent force, even with prisoners, enters neutral territory in (proved) error, it should be allowed to leave immediately.

**103.** A neutral state which receives in its territory troops belonging to belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

and to  
intern them.

The neutral State may deport to another part of its dominions interned belligerent troops which cannot conveniently be kept in the territory in which they have sought refuge.

It may keep them in camps, and even confine them in fortresses or in localities selected for this purpose.

It will decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without permission. (H. 57.)

Treatment  
of the  
interned.

104. In the absence of any special Convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace, the expenses caused by the internment shall be made good. (H. 58.)

Each belligerent will be responsible for the expenses, caused by the internment of its own troops, in the absence of any treaty provision to the contrary.

Internment  
of sick and  
wounded.

105. A neutral State may authorize the passage over its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of precaution and control as may be necessary for this purpose.

The neutral State, though allowed, is not bound to allow such passage as is here mentioned. The privilege should be accorded impartially, if at all, nor should one belligerent be permitted to send his sick and wounded through the neutral territory without consent of the other belligerent, previously obtained.

*Cf. supra, Art. 102.*

Wounded and sick brought, under these conditions, into neutral territory by one of the



belligerents, and belonging to the opposite party, must be detained by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care. (H. 59.)

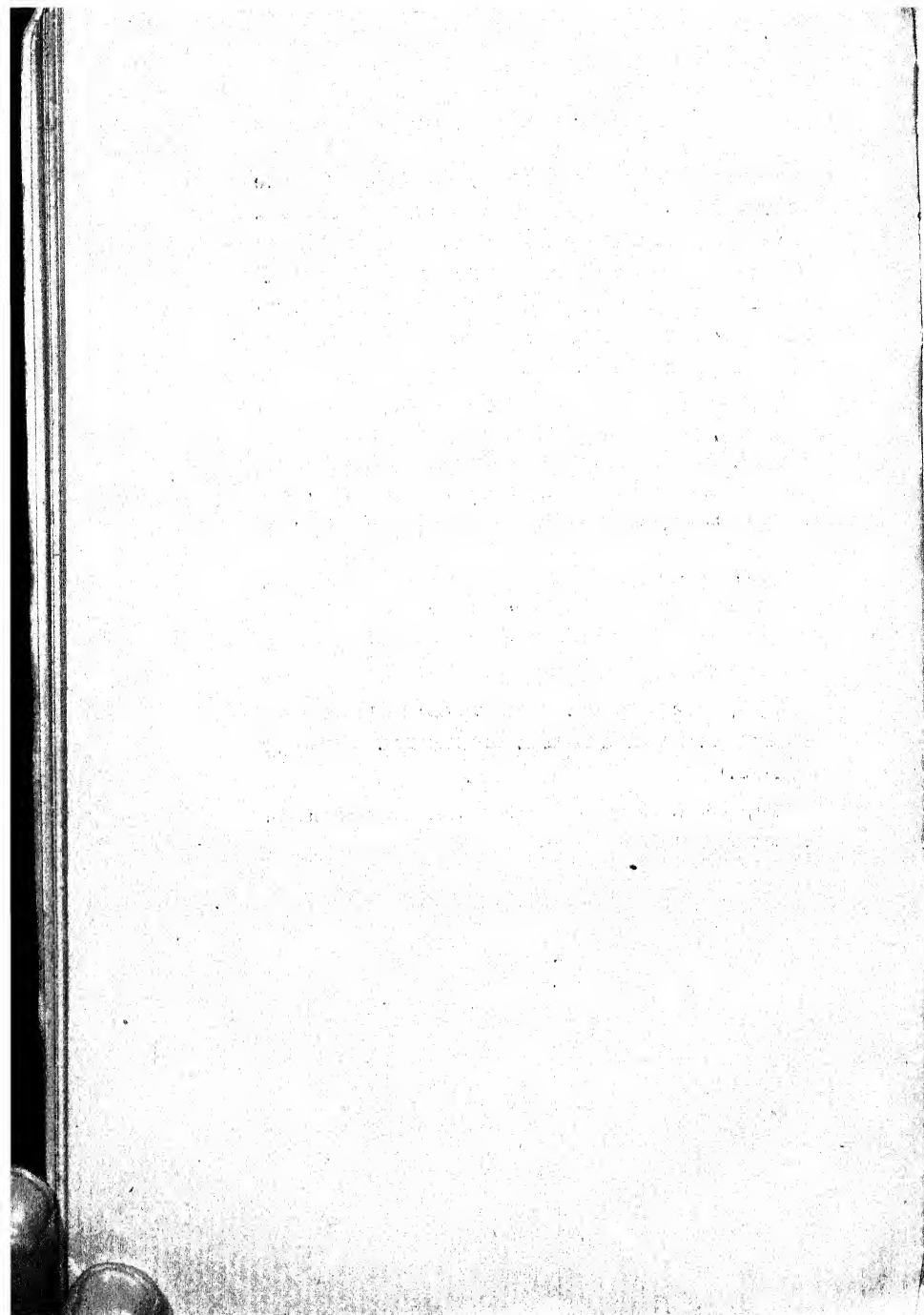
Under this paragraph, wounded prisoners, brought into neutral territory by a belligerent, may not be carried through as prisoners to the territory of their captor, but must remain under neutral control as long as the war lasts, when they will be allowed to return to their own country.

"The same duty," &c., *i.e.*, of detaining wounded who, for some reason, are left in the neutral territory, instead of being merely carried through it, under the first paragraph of this Article.

**106. The Geneva Convention applies to sick and wounded interned in neutral territory. (H. 60.)**

The operative articles of the Geneva Convention are set out in Arts. 47-54, *supra*.

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## APPENDIX.

## CONTENTS.

No. I.—LISTS OF Powers which are Parties to the three diplomatic Acts.

No. II.—HISTORICAL NOTES on the three diplomatic Acts.

No. III.—THE THREE DECLARATIONS (not binding upon Great Britain), which are set out in the Final Act of the Peace Conference of 1899.

## No. I.

LISTS OF POWERS, PARTIES TO THE THREE  
DIPLOMATIC ACTS.

THE following Powers (arranged in alphabetical order, and omitting those which are now extinct, or merged in other Powers) are respectively parties to the following Acts, having signed and, when ratification was necessary, ratified the same :

## (1.)

## TO THE GENEVA CONVENTION OF 1864.

Argentine Republic, Austria-Hungary, Belgium, Bolivia, Bulgaria, Chili, Congo, Corea, Denmark, France, Germany, Great Britain, Greece, Guatemala, Honduras, Italy, Japan, Luxemburg, Montenegro, Netherlands, Nicaragua, Persia, Peru, Portugal, Roumania, Russia, San Salvador, Servia, Siam, Spain, Sweden and Norway, Switzerland, Turkey, United States, Uruguay, Venezuela.

## (2.)

## TO THE DECLARATION OF ST. PETERSBURG OF 1868.

Austria-Hungary, Belgium, Brazil, Denmark, France, Germany, Great Britain, Greece, Italy, Netherlands, Persia, Portugal, Russia, Sweden and Norway, Switzerland, Turkey.

## (3.)

## TO THE HAGUE CONVENTION OF 1899.

Austria-Hungary, Belgium, Bulgaria, Corea, Denmark, France, Germany, Great Britain, Greece, Italy, Japan, Luxemburg, Mexico, Montenegro, Netherlands, Persia, Portugal, Roumania, Russia, San Salvador, Servia, Siam, Spain, United States.

## No. II.

HISTORICAL NOTES ON THE THREE  
DIPLOMATIC ACTS.

Several attempts were made during the latter half of the nineteenth century to systematise the laws of war by international discussion, and to procure the general acceptance of a uniform code of those laws by international agreement. On three occasions these attempts resulted in the signature of diplomatically binding Acts.

The first topic to be thus dealt with was the treatment of the wounded. The choice of weapons next engaged attention, till at length the Governments of the world took courage to deal with the conduct of warfare as a whole; and, just before the close of the century, most of the civilized Powers entered into a Convention by which they bound themselves to promulgate to their respective armies instructions framed on one and the same comprehensive model. This Convention, signed at the Hague in 1899, and ratified in the following year by most of the Powers which had been represented at the Conference, incorporating, as it does, the Geneva

Convention of 1864, as to the treatment of the wounded, and the Petersburg Declaration of 1868, as to explosive bullets, may fairly be regarded as an International Code of the Law of War on land. Though thus comprehensive, the code is, however, far from covering the whole subject. On some points the Nations are not yet in agreement, and there will probably always continue to be a residue of questions, the answers to which will hardly admit of being stereotyped in a written document.

A few observations upon each of these three Acts may be found useful.

(1.)

THE GENEVA CONVENTION (1864).

The sufferings of the wounded in the Italian campaign of 1859, especially as made known by M. Henri Dunant's pamphlet, "Un Souvenir de Solférino" (1862), called attention to the urgent necessity for giving increased efficiency to the medical services of belligerents, and also for supplementing those services by organized voluntary effort, preparation for which must be made in time of peace. Thanks to the exertions of the "Société Gènevoise d'Utilité Publique," an unofficial conference of persons of different nationalities, interested in the subject, was held at Geneva in 1863, which resolved to encourage the formation in each country of committees for the purpose of offering aid to the sanitary services of armies in the field. The agents of these "Sociétés de Secours" were to wear an arm-badge (*brassard*), displaying a red cross on a white ground (the arms of the Swiss confederation, transposing the colours.) This was the origin of the so-called "red-cross societies," which have since rapidly multiplied under the guidance of the "Comité International," sitting at Geneva.

So far, what had been accomplished amounted merely to an organization of private philanthropic effort; but a suggestion made by the Conference of 1863 was destined to produce results of quite a different order.

The Swiss Government was induced to invite the Powers to a

diplomatic Conference with a view to the "neutralization," by a permanent international agreement, of persons and appliances, in belligerent armies, devoted to the relief of the sick and wounded. A Conference assembled accordingly at Geneva, on 8th August, 1864, and produced a Convention (printed as Articles 47-54 of the present Handbook, *supra*, pp. 19-27), which was signed on the 22nd of the same month by the representatives of twelve Powers, by all of which it was subsequently ratified. Up to the present time no fewer than forty-one Powers have become parties to this Convention,\* the object of which is to give international protection in time of war to the wounded, as also to the hospitals and medical services, of both sides alike. It is necessary to observe, because the fact has occasionally been lost sight of, that the Convention, though it adopts, for its own purposes, the red-cross emblem of the "Sociétés de Secours," makes no mention of such voluntary societies, still less does it confer upon them any privileges, but refers exclusively to the plant and *personnel* of the sanitary (*i.e.*, medical and surgical) services of the belligerent Powers.†

Some difficulties which have been experienced in the working of the Convention have led to the following steps being taken towards its amendment, as yet without result :—

In consequence of representations made by the Red Cross Societies assembled at Paris on the occasion of the Exhibition of 1867, a diplomatic Conference met at Geneva in the following year, upon the invitation of the Swiss Government, with a view to the revision of the Convention of 1864. The Conference, which was attended by representatives of Austria, Baden, Bavaria, Belgium, Denmark, France, Great Britain, Italy, the Netherlands, North Germany, Sweden and Norway, Switzerland, Turkey, and Württemberg, lasted from the 5th to the 20th October, and resulted in the adoption of certain "additional Articles." These

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\* See Appendix, No. I (1), *supra*. For the Protocols of this Conference, see *Nouveau Recueil Général*, t. xx, pp. 375-399.

† Cf. Art. 46 of the present Handbook, *supra*, p. 18.

have never been ratified, but have produced some effect upon public opinion.\*

In 1899 the delegates to the "Peace Conference" at the Hague unanimously agreed to the following statement:—"The Conference, having regard to the preliminary steps taken by the Federal Government of Switzerland for the revision of the Convention of Geneva, expresses its hope that a special Conference for the purpose of revising the Convention may be summoned at an early date." The Federal Government has accordingly invited the Powers to send delegates to a Conference for this purpose.

(2.)

THE DECLARATION OF ST. PETERSBURG (1868).

Standard writers of the eighteenth century objected to the employment of certain means of injuring the enemy, on account of their wholesale destructiveness. The tendency of modern opinion is, however, against the prohibition of a weapon because it is effective. Since the duration of a war must largely depend upon the number of men who are put *hors de combat*, it may well be thought that, even in the interests of humanity, the more rapidly that object is accomplished, the better.†

On the other hand, it is generally felt that some of the inventions of modern science are calculated to cause suffering and mortality in excess of what is needed to disable troops for present military service. Only one such invention has yet been condemned by general international agreement.

In 1863 a bullet was introduced into the Russian army, to be used for blowing up ammunition wagons, which exploded, by means of a cap, on contact with a hard substance. The fear that

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\* For the text of the Articles, see *Nouveau Recueil Général*, t. xviii, pp. 612-619; and for the Protocols of the Conference, *ib.*, t. xx, pp. 400-435.

† The Hague Declaration against the employment of projectiles charged with deadly gases (q.v. Appendix, No. III (2), p. 61, *infra*), might seem to indicate a re-action towards the older view on the part of its signatories, of whom, it must be remembered, Great Britain is not one.

this sort of bullet might be employed against troops was increased when, in 1867, a modification of it was suggested which enabled it to explode, without a cap, on contact even with a soft substance. The Russian War Minister, General Milutine, was reluctant, therefore, to sanction the use of the bullet, as thus modified, and induced his Government to issue a circular to the Powers, inviting them to send delegates to an "International Military Commission," for the consideration of the question which had arisen. The Prussian Government was disposed to enlarge the scope of the inquiry, so as to enable it to deal generally with the application of scientific discoveries to warfare. To this Great Britain was opposed, and her view was found to be shared by the other Powers when the delegates met at St. Petersburg on 29th October (9th November), 1868. They agreed upon their draft of the Declaration on 4th (16th) November, and it was signed by the diplomatic representatives at the Russian Court of the Powers concerned, as Plenipotentiaries, on the 29th November (11th December).\*

This Declaration (see Articles 56 and 57 of the present Handbook, *supra*, pp. 27, 28) is of great value for the statement of general principles which it contains, although the projectiles against the use of which it is directed would, apparently, in any case, no longer be employed.

(3.)

THE HAGUE CONVENTION.

(1899.)

The first attempt to methodize, and to express in the form of an international agreement, the whole topic of the laws and usages of war, was made by the Conference convened at Brussels in 1874 by the Emperor Alexander II. of Russia. The Conference produced a draft Declaration, in fifty-six articles, which, though it remained unratified, yet, resulting as it did from the deliberations of highly-qualified delegates of thirteen of the principal States of

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\* For the Protocols of the Commission, see *Nouveau Recueil Général*, t. xviii, pp. 460-473; for the Declaration, *ib.* t. xx, pp. 474, 475.



Europe, has largely contributed to the formation of opinion upon the subject of which it treats.

When, after the lapse of a quarter of a century, the Emperor Nicholas II. procured the assembling of the delegates of twenty-six Powers for the "Peace Conference" at the Hague, one of the subjects suggested for its consideration was a revision of the Brussels draft. The following Convention, signed at the Hague on July 29th, 1899, or subsequently, on behalf of all the Powers represented, except Switzerland and China, and afterwards ratified by almost all of the signatories, is not the least important piece of work accomplished by the Conference. It gives international obligation to a body of rules which are, for the most part, those which had been adopted at Brussels in 1874, with modifications derived from various sources, and especially from the "*Manuel des lois de la guerre sur terre*," adopted by the *Institut de Droit International*, at its meeting at Oxford in 1880.\*

#### CONVENTION RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

H.M. THE QUEEN OF GREAT BRITAIN AND IRELAND,

H.M. THE EMPEROR OF GERMANY,

&c., &c., &c.†

Considering that, while seeking means to preserve peace and prevent armed conflicts among nations, it is a duty to have regard likewise to cases where an appeal to arms may be brought about by events which their care shall not have been able to avert ;

Animated by the desire to serve, even in this extreme

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\* For the Protocols of the Hague Conference, see *Nouveau Recueil Général*, 2me Série, t. xxvi.

† The Convention was signed on behalf of Austria-Hungary, Belgium, Bulgaria, Denmark, France, Germany, Great Britain, Greece, Italy, Japan, Luxemburg, Mexico, Montenegro, Netherlands, Persia, Portugal, Roumania, Russia, Servia, Siam, Spain, Sweden and Norway, Turkey, United States. For a list of the Powers which have ratified, see Appendix No. I (3), *supra*, p. 52.

hypothesis, the interests of humanity and the ever increasing requirements of civilization ;

Thinking it to be a duty, with this object, to revise the general laws and customs of war, with a view to define them more precisely, and to lay down certain limits for the purpose of modifying their severity as far as possible ;

Inspired by these views, which are enjoined at the present day, as they were twenty-five years ago at the time of the Brussels Conference of 1874, by a wise and generous foresight ;

Have, in this spirit, adopted a great number of provisions, the object of which is to define and regulate the usages of war on land.

In the view of the High Contracting Parties, these provisions the wording of which has been inspired by the desire to diminish the evils of war, so far as military necessities permit, are intended to serve as general rules of conduct for belligerents in their relations with each other and with populations.

It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice.

On the other hand, it could not be intended by the High Contracting Parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war can be issued, the High Contracting Parties think it desirable to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and government of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and from the requirements of the public conscience ;

They declare that it is in this sense that Articles I and II especially of the Regulations adopted must be understood ;

The High Contracting Parties, desiring to conclude a Con-

vention to this effect, have appointed as their Plenipotentiaries, to wit :—

*(Here follow the names and titles of the Plenipotentiaries.)*

Who, after communication to one another of their full powers, found to be in good and due form, have agreed as follows :—

#### ART. I.

The High Contracting Parties will issue instructions to their armed land forces, which shall be in conformity with the "Regulations respecting the Laws and Customs of War on Land" annexed to the present Convention.

#### ART. II.

The provisions contained in the Regulations mentioned in Article I are binding only on the Contracting Powers in case of war between two or more of them.

These provisions shall cease to be binding from the moment when, in a War between the Contracting Powers, a non-Contracting Power joins one of the belligerents.

#### ART. III.

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy of it, duly certified, shall be sent through the diplomatic channels to all the Contracting Powers.

#### ART. IV.

Non-Signatory Powers are allowed to give in their adhesion to the present Convention.

For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Government of the Netherlands, and by it communicated to all the other Contracting Powers.\*

#### ART. V.

In the event of one of the High Contracting Parties denouncing the present Convention, the denunciation shall not take effect

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\* Adhesions have been received from Corea and San Salvador.

until a year after a written notification of it made to the Government of the Netherlands, and at once communicated by that Government to all the other Contracting Powers.

This denunciation shall affect only the notifying Power.

In faith of which the Plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at the Hague, the 29th July, 1899, in a single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which, certified as correct, shall be delivered, through the diplomatic channels, to the Contracting Powers.

*(Here follow the signatures.)*

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#### ANNEX TO THE CONVENTION.

*(Containing the Regulations, 1-60, which are printed as Articles 25-45, 55, 58-81, 83-92, 103-106, of the present work.)*

### No. III.

THREE DECLARATIONS SIGNED AT THE HAGUE ON THE 29th JULY, 1899, ON BEHALF OF MANY OF THE POWERS REPRESENTED AT THE PEACE CONFERENCE.

(N.B.—These Declarations were not signed on behalf of Great Britain, and are not binding upon her.)

#### DECLARATION (1).

The undersigned, Plenipotentiaries of the Powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that :

The Contracting Powers agree to prohibit, for a term of five years, the throwing of projectiles and explosives from balloons, or by other new methods of a similar nature.

The present declaration is only binding on the Contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* of the deposit of each ratification shall be drawn up, and a copy of it, duly certified, shall be sent through the diplomatic channels to all the Contracting Powers.

Non-Signatory Powers may become parties to the present Declaration. For this purpose they must make their adhesion to it known to the Contracting Powers by means of a written notification addressed to the Government of the Netherlands, and communicated by it to all the other Contracting Powers.

In the event of one of the High Contracting Parties denouncing the present Declaration, the denunciation shall not take effect until a year after the notification made in writing to the Government of the Netherlands, and by it forthwith communicated to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In faith of which the Plenipotentiaries have signed the present Declaration, and affixed their seals thereto.

Done at the Hague the 29th July, 1899, in a single copy which shall be kept in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be sent through the diplomatic channels to the Contracting Powers.

*(Here follow signatures.\*)*

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#### DECLARATION (2).

The undersigned, Plenipotentiaries of the Powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments

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\* This Declaration was signed on behalf of all the Powers represented at the Conference except Great Britain. It has been ratified by many of them.

which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that :

The Contracting Powers renounce the use of projectiles the sole object of which is the diffusion of asphyxiating or harmful gases.

The present Declaration is only binding on the Contracting Powers in the case of a war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents shall be joined by a non-Contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* of the deposit of each ratification shall be drawn up, and a copy of it, duly certified, shall be sent through the diplomatic channels to all the Contracting Powers.

Non-Signatory Powers may become parties to the present Declaration. For this purpose they must make their adhesion to it known to the Contracting Powers by means of a written notification addressed to the Government of the Netherlands, and by it communicated to all the other Contracting Powers.

In the event of one of the High Contracting Parties denouncing the present Declaration, the denunciation shall not take effect until a year after the notification made in writing to the Government of the Netherlands, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In faith of which the Plenipotentiaries have signed the present Declaration, and affixed their seals thereto.

Done at the Hague, the 29th July, 1899, in a single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be sent by the diplomatic channels to the Contracting Powers.

*(Here follow signatures.\*)*

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\* This Declaration was signed on behalf of all the Powers represented except Great Britain and the United States. It has been ratified by many of them.

## DECLARATION (3).

The Undersigned, Plenipotentiaries of the Powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that :

The Contracting Powers renounce the use of bullets which expand or flatten easily in the human body, such as bullets with a hard casing which does not entirely cover the core, or is pierced with incisions.

The present Declaration is only binding for the Contracting Powers in the case of a war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* of the deposit of each ratification shall be drawn up, and a copy of it, duly certified, shall be sent through the diplomatic channels to all the Contracting Powers.

Non-Signatory Powers may become parties to the present Declaration. For this purpose they must make their adhesion to it known to the Contracting Powers by means of a written notification addressed to the Government of the Netherlands, and by it communicated to all the other Contracting Powers. In the event of one of the High Contracting Powers denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Government of the Netherlands, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In faith of which the Plenipotentiaries have signed the present Declaration, and have affixed their seals thereto.

Done at the Hague the 29th July, 1899, in a single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be sent through the diplomatic channels to the Contracting Powers.

*(Here follow signatures.\*)*

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\* This Declaration was signed on behalf of all the Powers represented, except Great Britain and the United States. It has been ratified by many of them.



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